

The House Committee on Transportation offers the following substitute to HB 1060:

A BILL TO BE ENTITLED
AN ACT

1
2 To enact the "Transportation Safety Act of 2002"; to amend Article 2 of Chapter 3 of Title
3 6 of the Official Code of Georgia Annotated, relating to the powers of local governments as
4 to airports, so as to provide for the powers of law enforcement officers at airports and landing
5 fields; to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
6 Annotated, relating to carrying and possessing firearms, so as to broaden the applicability to
7 transportation terminals; to provide for a prohibition of destructive and hoax devices and
8 hazardous substances at public gatherings; to provide for a duty on individuals to ensure the
9 security of their persons and baggage; to provide an affirmative defense for the unauthorized
10 possession of firearms at public gatherings; to amend Part 2 of Article 4 of Chapter 12 of
11 Title 16 of the Official Code of Georgia Annotated, known as the "Bus and Rail Passenger
12 Safety Act," so as to extend its provisions to air terminals and aviation transportation; to
13 provide for criminal sanctions for the avoidance of or interference with security measures
14 and devices; to provide for criminal sanctions for tampering with baggage or freight; to
15 provide for criminal sanctions for the disabling or inhibiting of any safety device on certain
16 freight or baggage; to provide a short title; to provide for definitions; to provide for penalties;
17 to provide for other related matters; to provide for an effective date; to repeal conflicting
18 laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

20 This Act shall be known and may be cited as the "Transportation Safety Act of 2002."
21

SECTION 2.

22 Article 2 of Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to the
23 powers of local governments as to airports, is amended by striking Code Section 6-3-27 in
24 its entirety and inserting in lieu thereof the following:
25

H. B. 1060 (SUB)

1 "6-3-27.

2 (a) Counties, municipalities, or other political subdivisions acquiring, establishing,
 3 developing, operating, maintaining, or controlling airports or landing fields under this
 4 article without outside the geographical limits of such subdivisions are specifically granted
 5 the right to enforce police regulations on such airports or landing fields.

6 (b) A law enforcement officer of the county, municipality, or other political subdivision
 7 operating an airport or landing field outside the geographical limits of such political
 8 subdivision shall, when authorized by the county, municipality, or other political
 9 subdivision operating said airport or landing field, have the same law enforcement powers,
 10 including the powers of arrest, as a law enforcement officer of the political subdivision in
 11 which such airport or landing field is located.

12 (c) Nothing in this Code section shall be construed as limiting the authority of any law
 13 enforcement agency of the county, municipality, or other political subdivision in which
 14 such airport or landing field is located."

15 SECTION 3.

16 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
 17 relating to carrying and possession of firearms, is amended by striking Code Section
 18 16-11-127 in its entirety and inserting in lieu thereof the following:

19 "16-11-127.

20 (a) Except as provided in Code Section 16-11-127.1, a person is guilty of a misdemeanor
 21 when he or she carries to or while at a public gathering, possesses, or has under his or her
 22 control any explosive compound, destructive device, or hoax device as defined in Code
 23 Section 16-7-80; firearm, or knife; hazardous substance as defined by Code Section
 24 12-8-92; or knife or other device designed or modified for the purpose of offense and
 25 defense.

26 (b) For the purpose of this Code section, 'public gathering' shall include, but shall not be
 27 limited to, athletic or sporting events, churches or church functions, political rallies or
 28 functions, publicly owned or operated buildings, terminals operated for public
 29 transportation, as defined in Code Section 16-12-122, freight rail facilities, or
 30 establishments at which alcoholic beverages are sold for consumption on the premises.
 31 Nothing in this Code section shall otherwise prohibit the carrying of a firearm in any other
 32 public place by a person licensed or permitted to carry such firearm by this part.

33 (c) This Code section shall not apply to competitors participating in organized sport
 34 shooting events or military training or competitive programs conducted by or on behalf of
 35 the armed forces of the United States or the Georgia Department of Defense. Law
 36 enforcement officers, peace officers retired from state or federal law enforcement agencies,

1 judges, magistrates, ~~solicitors-general, and district~~ and prosecuting attorneys as defined in
 2 paragraphs (5), (6), (8), and (13) of subsection (a) of Code Section 16-11-130 may carry
 3 pistols firearms in publicly owned or operated buildings.

4 (d) It shall be the duty of a person attending a public gathering to ensure that any garment,
 5 baggage, or container of any description that is in such person's actual or constructive
 6 possession shall not contain any item described in subsection (a) of this Code section.

7 (e) The provisions of this Code section shall not apply to:

8 (1) Any item prohibited by subsection (a) of this Code section which has been secured
 9 in a manner prescribed by state or federal law or regulation for the purpose of
 10 transportation or shipment or which is used in a manner prescribed by law or regulation
 11 with the approval of the governmental agency having jurisdiction over such public
 12 gathering;

13 (2) A person who is licensed in accordance with Code Section 16-11-129 or issued a
 14 permit pursuant to Code Section 43-38-10 when such person is in travel to a public
 15 gathering for the purpose of employment or to provide transportation for another to or
 16 from a public gathering;

17 (3) Any substance or instrument described in subsection (a) of this Code section in
 18 transit through the parking areas or roadways of a public gathering as defined in
 19 subsection (b) of this Code section when the substance or instrument is in a locked
 20 compartment of a motor vehicle or one which is in a locked container in or a locked
 21 firearms rack which is on a motor vehicle which is being used by an adult over 18 years
 22 of age; or

23 (4) Any substance or instrument described in subsection (a) of this Code section when
 24 in the possession of an adult over the age of 18 years whose place of employment is at
 25 the public gathering and such item or substance is possessed as described in paragraph (3)
 26 of this subsection.

27 (f) It is an affirmative defense to a violation of this Code section if a person notifies a law
 28 enforcement officer or other person employed to provide security for a public gathering of
 29 the presence of such item as soon as possible after learning of its presence and surrenders
 30 or secures such item as directed by the law enforcement officer or other person employed
 31 to provide security for a public gathering."

32 SECTION 4.

33 Part 2 of Article 4 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
 34 known as the "Bus and Rail Vehicle Passenger Safety Act," is amended by striking said Part
 35 2 in its entirety and inserting in lieu thereof the following:

"Part 2

16-12-121.

This part shall be known and may be cited as the '~~Bus and Rail Vehicle~~ Transportation Passenger Safety Act.'

16-12-122.

As used in this part, the term:

(1) 'Aircraft' means any machine, whether heavier or lighter than air, used or designed for navigation of or flight in the air.

(2) 'Avoid a security measure' means to take any action that is intended to result in any person, baggage, container, or item of any type being allowed into a secure area without being subjected to security measures or the assembly of items into an object or substance that is prohibited under the laws of this state or of the United States or any of their agencies, political subdivisions, or authorities after such items have passed through a security measure into a secure area.

~~(1)~~(3) 'Bus' means any passenger bus or coach or other motor vehicle having a seating capacity of not less than 15 passengers operated by a transportation company for the purpose of carrying passengers or ~~cargo~~ freight for hire.

~~(2)~~(4) 'Charter' means a group of persons, pursuant to a common purpose and under a single contract and at a fixed charge for the vehicle in accordance with a transportation company's tariff, who have acquired the exclusive use of a an aircraft, bus, or rail vehicle to travel together as a group to a specified destination.

(5) 'Interfere with a security measure' means to take any action that is intended to defeat, disable, or prevent the full operation of equipment or procedures designed or intended to detect any object or substance, including, but not limited to, disabling of any device so that it cannot fully function, creation of any diversion intended to defeat a security measure, or packaging of any item or substance so as to avoid detection by a security measure.

~~(3)~~(6) 'Passenger' means any person served by the transportation company; and, in addition to the ordinary meaning of passenger, the term shall include any person accompanying or meeting another person who is transported by such company, any person shipping or receiving ~~cargo~~ freight, and any person purchasing a ticket or receiving a pass.

~~(4)~~(7) 'Rail vehicle' means any railroad or rail transit car, carriage, coach, or other vehicle, whether self-propelled or not pulled or pushed by a locomotive or other vehicle or vehicles, having a seating capacity of not less than 15 passengers; and designed to be

1 operated upon a rail or rails or other fixed right of way by a transportation company for
2 the purpose of carrying passengers or cargo freight or both for hire.

3 (8) 'Secure area' means any enclosed or unenclosed area within a terminal whereby
4 access is restricted in any manner or the possession of items subject to security measures
5 is prohibited. Access to a secure area may be restricted to persons specifically authorized
6 by law, regulation, or policy of the governing authority or transportation company
7 operating said terminal, and such access into a secure area may be conditioned on passing
8 through security measures, and possession of items may be restricted to designated
9 persons who are acting in the course of their official duties.

10 (9) 'Security measure' means any process or procedure by which employees, agents,
11 passengers, persons accompanying passengers, containers, baggage, freight, or
12 possessions of passengers or persons accompanying passengers are screened, inspected,
13 or examined by any means for the purpose of ensuring the safety and welfare of aircraft,
14 bus, or rail vehicles and the employees, agents, passengers, and freight of any
15 transportation company. The security measures may be operated by or under the
16 authority of any governmental entity, transportation company, or any entity contracting
17 therewith.

18 ~~(5)~~(10) 'Terminal' means a an aircraft, bus, or rail vehicle station, depot, or any such
19 transportation facility, or infrastructure relating thereto operated by a transportation
20 company or governmental entity or authority. This term includes a reasonable area
21 immediately adjacent to any designated stop along the route traveled by any coach or rail
22 vehicle operated by a transportation company or governmental entity operating aircraft,
23 bus, or rail vehicle transportation facility and parking lots or parking areas adjacent to a
24 terminal.

25 ~~(6)~~(11) 'Transportation company' or 'company' means any person, group of persons, or
26 corporation providing for-hire transportation to passengers or cargo freight by aircraft,
27 by bus upon the highways in this state, by rail vehicle upon any public or private right of
28 way in this state, or by both all, including passengers and cargo freight in interstate or
29 intrastate travel. This term shall also include transportation facilities owned or operated
30 by local public bodies; by municipalities; and by public corporations, authorities, boards,
31 and commissions established under the laws of ~~the~~ this state, any of the several states, the
32 United States, or any foreign nation.

33 16-12-123.

34 (a) The offense of bus or rail vehicle hijacking is the seizure or exercise of control by force
35 or violence or threat of force or violence of any bus or rail vehicle within the jurisdiction
36 of this state. Any person committing the offense of bus or rail vehicle hijacking shall be

1 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for life
2 or imprisonment for not less than one nor more than 20 years.

3 (b) Any person who boards or attempts to board a an aircraft, bus, or rail vehicle with a
4 dangerous or deadly weapon prohibited item, as set forth in subsection (a) of Code Section
5 16-11-127, concealed on or about his or her person or his property which is or would be
6 accessible to such person while on the aircraft, bus, or rail vehicle shall be guilty of a
7 felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than
8 one nor more than ten years. The prohibition of this subsection shall not apply to any
9 person who is exempted under Code Section 16-11-130 or law enforcement officer, peace
10 officer retired from a state or federal law enforcement agency, person in the military
11 service of the state or of the United States, or commercial security personnel, employed by
12 the transportation company, who are in possession of weapons or items used within the
13 course and scope of their employment; ~~nor shall the prohibition apply to persons who are~~
14 ~~in the possession of weapons with the consent of the owner of such bus or rail vehicle, his~~
15 ~~agent, or the lessee or bailee of such bus or rail vehicle;~~ nor shall the prohibition apply to
16 persons transporting weapons or items contained in baggage which is not accessible to
17 passengers ~~on the bus or rail vehicle~~ if the presence of such weapons or items has been
18 declared to the transportation company and such weapons or items have been secured in
19 a manner prescribed by state or federal law or regulation for the purpose of transportation
20 or shipment. This subsection shall not prevent those persons enumerated in subsection (c)
21 of Code Section 16-11-127 from the possession of firearms when engaged in travel in bus
22 or rail travel in this state.

23 (c) Any person who has on or about his or her person or who has placed, attempted to
24 place, or attempted to have placed in a container or freight of a transportation company or
25 in the baggage or possessions of any passenger of any transportation company or aboard
26 such aircraft, bus, or rail vehicle any destructive device, as such term is defined by Code
27 Section 16-7-80 prohibited item, as set forth in subsection (a) of Code Section 16-11-127,
28 without the knowledge of the passenger or transportation company with the intention of
29 avoiding or interfering with a security measure or introducing said item into a terminal,
30 shall be guilty of a felony and, upon conviction thereof, shall be ~~sentenced to~~ punished by
31 imprisonment for not less than one nor more than 20 years, a fine not to exceed \$15,000.00,
32 or both. It shall be an affirmative defense to a prosecution under this Code section that the
33 act was performed with the intention of restoring lost, stolen, or mislaid property to its
34 lawful owner or proper container.

35 (d) Any person who by force or violence or by threat of force or violence seizes or
36 exercises control of any transportation company, or of the transportation facilities owned
37 or operated by any such company, or of any part thereof, or who by force or violence or by

1 threat of force or violence obstructs, hinders, interferes with, or otherwise disrupts or
 2 disturbs the operation of any such company or facility, or of any part thereof, shall be
 3 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for life
 4 or by imprisonment for not less than one nor more than 20 years.

5 (e) The company may employ reasonable ~~means~~ security measures, including mechanical,
 6 electronic, or X-ray devices, to detect concealed weapons, explosives, or hazardous
 7 material in baggage or freight or upon the person of the passenger. Upon the discovery of
 8 any such item or material in the possession of a person, unless the item is a weapon in the
 9 possession of a person exempted under subsection (b) of this Code section from the
 10 prohibition of that subsection (b), the company shall obtain possession and retain custody
 11 of such item or materials until they are transferred to the custody of law enforcement
 12 officers.

13 16-12-124.

14 (a) It shall be unlawful to remove any baggage, ~~cargo~~ freight, container, or other item
 15 transported upon a an aircraft, bus, or rail vehicle or stored in a terminal without consent
 16 of the owner of such property or the company or its duly authorized representative. Any
 17 person violating this Code section shall be guilty of a felony and, upon conviction thereof,
 18 shall be punished by imprisonment for not less than one nor more than five years.

19 (b) The actual value of an item removed in violation of this Code section shall not be
 20 material to the crime herein defined.

21 16-12-124.1.

22 (a) It shall be unlawful for any person to avoid or interfere with a security measure. Any
 23 person convicted of a violation of this Code section shall be guilty of a misdemeanor of a
 24 high and aggravated nature; provided, however, that any person who violates this Code
 25 section with the intent to commit a felony within the terminal or with regard to any aircraft,
 26 bus, or rail vehicle shall be punished by imprisonment for not less than five nor more than
 27 25 years, a fine not to exceed \$100,000.00, or both.

28 (b) Any violation of this Code section shall be considered a separate offense.

29 16-12-124.2.

30 (a) It shall be unlawful to intentionally disable or inhibit the operation or effectiveness of
 31 any safety device of any description or to render any item or substance less safe when said
 32 item or substance is in any freight of a transportation company, in baggage or possessions
 33 of a passenger, or in a terminal.

1 (b) It shall be unlawful to intentionally render inoperable or partially inoperable for any
2 period of time any device designed or operated for traffic control that is owned, operated,
3 or maintained by or for the benefit of a transportation company.

4 (c) Any violation of this Code section shall be punished by imprisonment for not less than
5 five nor more than 20 years, a fine not to exceed \$100,000.00, or both.

6 (d) Any violation of this Code section shall be considered a separate offense.

7 16-12-125.

8 This part shall be cumulative and supplemental to any other law of this state. A conviction
9 or acquittal under any of the criminal provisions of Code Section 16-12-123, ~~or~~ 16-12-124,
10 16-12-124.1, or 16-12-124.2 shall not be a bar to any other civil or criminal proceeding."

11 **SECTION 5.**

12 This Act shall become effective on the first day of the month following the month in which
13 it is approved by the Governor or in which it becomes law without such approval.

14 **SECTION 6.**

15 All laws and parts of laws in conflict with this Act are repealed.